

**BOARD OF PERSONNEL APPEALS
MEETING MINUTES
December 21, 2017**

PRESENT:

LeRoy Schramm, Board Chair Alternate
Jim Soumas, Labor Member – by telephone
Steve Johnson, Management Member

Quint Nyman, Labor Member

STAFF ATTENDING:

Mark Cadwallader, Board Attorney
Patty Anderson, Board Secretary
Theresa Sroczyk
Amber Carpenter
Max Hallfrisch – by telephone
William Smith

BOARD BUSINESS

APPROVAL OF MINUTES (7:55 – 8:45):

Member Johnson moved to approve the minutes of the July meeting. Member Nyman seconded the motion. Motion passed 3-0.

NEXT MEETING DATE (8:49: - 9:15):

February 16, 2018, pending any appeals.

PUBLIC COMMENT (2-3-103 MCA) (9:47 – 9:59):

No public comment was made.

STAFF/ATTORNEY COMMENTS (10:05 – 11:00):

Board Attorney Mark Cadwallader introduced himself as the new Board Attorney.

MISCELLANEOUS (11:00 – 11:50)

Board Secretary Anderson commented that the Board of Personnel Appeals website was being updated. The Board Members personal information is no longer on the website. A link for the Board meeting agenda will be added.

Oral Argument: Unfair Labor Practice 4-2017 (15:00 – 1:51:18)

Petitioner: Polson Classified Employees Association, MEA-MFT

Respondent: Polson School District

LeRoy Schramm was the Presiding Officer in this matter. Board Members in attendance were: Member Johnson, Member Nyman and Member Soumas, by telephone. Member Moore was absent, and could not be replaced with an alternate member on short notice. Karl Englund represented the Petitioner. Patrick Fleming, by telephone, represented the Respondent.

Prior to hearing oral argument Member Nyman stated that there was a potential for the appearance of a conflict of interest in the case due to his employment with the Montana Public Employee Association (MPEA). As a matter of general knowledge, MPEA and the Montana Education Association – Montana Federation of Teachers (MEA-MFT) were discussing the possible merger of the two labor organizations. At the time of the hearing, neither MPEA nor MEA-MFT had formally approved a decision to merge. Following

a discussion among Board Members, Member Nyman stated that he did not believe that he had an actual conflict of interest in this case. The Presiding Officer asked each party whether it objected to the participation of Member Nyman in the case. Counsel for the Petitioner, Karl Englund, stated he did not object to Member Nyman participating in the case. Counsel for the Respondent, Patrick Fleming, stated that because the matter had not been discussed with his client, he was unwilling to waive any possible conflict of interest due to Member Nyman's participation in the case.

Both parties have appealed the decision by the Hearing Officer. The School District's appeal deals with the issue of whether there was an Unfair Labor Practice committed and the Classified Employees Association's appeal deals with the question of remedy. Arguments were heard, questions were asked by Board Members.

Member Johnson moved to adopt the Hearing Officer's Findings of Fact and Conclusions of Law and Recommended Order be upheld by the Board in its entirety. Member Soumas seconded the motion. Discussion took place regarding Finding of Fact Number 11 and whether or not to amend a Finding of Fact.

Discussion took place as to the drafting of the order given the issues the Board has regarding Finding of Facts Number 11 and amending said Finding. Member Johnson agreed with the change and amended his original motion to incorporate that change. Member Nyman seconded the motion.

Motion carried 4-0.

Meeting adjourned